

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HANORAH GONZALES,
Plaintiff,

vs.

ALBERTSONS COMPANIES, LLC
D/B/A ALBERTONS,
Defendant.

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Civil Action No.

**DEFENDANT'S NOTICE OF REMOVAL AND REQUEST FOR LEAVE TO
PROCEED WITHOUT LOCAL COUNSEL**

Defendant Albertsons Companies, LLC dba Albertsons ("Defendant") files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, requests leave to proceed without local counsel, and respectfully shows:

Commencement and Service

1. On July 27, 2022, Hanorah Gonzales ("Plaintiff") commenced this action by filing an Original Petition ("State Court Petition") in the 14th Judicial District Court of Dallas County, Texas. The case is styled Cause No.DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*.¹

2. The lawsuit was first served on Defendant on August 12, 2022.²

3. Defendant timely answered in state court on September 2, 2022.³

¹ See *Exhibit C*, Plaintiff's Original Petition.

² See *Exhibit D*, Return of Service.

³ See *Exhibit E*, Defendant's Original Answer and Affirmative Defenses.

4. This Notice of Removal is filed within thirty days of the receipt of service of process and is therefore considered timely pursuant to 28 U.S.C. § 1446(b). This Notice of Removal is also filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(c).

Grounds for Removal

5. Defendant is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship.

Diversity of Citizenship

6. There is complete diversity of citizenship between Plaintiff and Defendant.

7. Plaintiff is a citizen of Texas.⁴

8. Defendant Albertsons Companies, LLC is not a citizen of Texas.⁵ Defendant Albertsons Companies, LLC was a Delaware limited liability company, but it ceased to exist in February 2018 having merged into Albertsons Companies, Inc. (“ACI”) with ACI the surviving entity, as of the stated date. ACI is incorporated in Delaware with its principal place of business in Boise, Idaho. A corporation is deemed to be a “citizen” of the state where it maintains its principal place of business

⁴ See *Exhibit C*, Plaintiff’s Original Petition at ¶ II.

⁵ See *Exhibit H*, Certification of Michael Dingel.

(its “nerve center”) and the state of its incorporation.⁶ Therefore, Defendant is a citizen of Idaho and Delaware.

9. The entity that employed Plaintiff on the alleged date of incident is Albertson’s LLC, but that entity has not yet been named as a party to this lawsuit.

Amount in Controversy

10. This is a personal injury case with well over \$75,000 in controversy at the time of this removal. Per her Petition, Plaintiff pleads monetary relief over \$250,000 but not to exceed \$1,000,000 pursuant to Rule 47(c) of the Texas Rules of Civil Procedure.

Venue

11. Venue lies in the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed the action in this judicial district and division.

Notice

12. Defendant will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court and will serve upon Plaintiff’s counsel, a notice of the filing of this Notice of Removal.

⁶ See, 28 U.S.C § 1332(c)(1); see also, *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1185-86 (2010).

Exhibits to Notice of Removal

13. In support of this Notice of Removal and pursuant to 28 U.S.C. §1446(a), true and correct copies of the following documents are attached to this Notice as corresponding lettered exhibits:

- A. Index of documents filed in Cause No. DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*, in the 14th Judicial District Court of Dallas County, Texas.– ***Exhibit A***
- B. Docket Sheet for Cause No. Cause No. DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*, in the 14th Judicial District Court of Dallas County, Texas. – ***Exhibit B***
- C. Plaintiff's Original Petition filed on July 27, 2022, Cause No. DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*, in the 14th Judicial District Court of Dallas County, Texas. – ***Exhibit C***
- D. Return of Service filed on August 15, 2022, Cause No. DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*, in the 14th Judicial District Court of Dallas County, Texas. - ***Exhibit D***
- E. Defendant's Original Answer, Verified Denial and Affirmative Defenses filed September 2, 2022, Cause No. DC-22-08718; *Hanorah Gonzales v. Albertsons Companies, LLC d/b/a Albertsons*, in the 14th Judicial District Court of Dallas County, Texas. – ***Exhibit E***
- F. Certificate of Interested Persons – ***Exhibit F***
- G. Notice of Filing Removal in State Court – ***Exhibit G***
- H. Certification of Michael Dingel – ***Exhibit H***

Request for Leave to Proceed Without Local Counsel

14. Counsel for Defendant maintains its office in Austin, Texas, in the Western District. Local Rule 83.10 requires local counsel to appear in cases where underlying counsel maintains its office outside of the Northern District, unless leave of court is granted from the presiding judge. Counsel for Defendant represents

Defendant Albertsons Companies, LLC d/b/a Albertsons throughout the State of Texas and respectfully requests leave from the Court to appear without local counsel.

Prayer

WHEREFORE, Defendant, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the District Court of Dallas County, Texas to this Court and requests leave to proceed without local counsel.

Respectfully submitted,

By: /s/ Karl Seelbach
Karl Seelbach
State Bar No. 24044607
karl@doyleseelbach.com

Jacob S. Jones
State Bar No. 24101975
jake@doyleseelbach.com

Doyle & Seelbach PLLC
7700 W. Highway 71, Suite 250
Austin, Texas 78735
512.960.4890 Telephone
doyleseelbach.com

ATTORNEYS FOR DEFENDANT

 Doyle & Seelbach

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the above and foregoing document has been served by fax and electronic delivery to counsel identified below on this, the 9th day of September 2022.

Steven Pierret
BAILEY & GALYEN
1300 Summit Ave., Ste 650
Fort Worth, TX 76102
(817) 592-6070 - Office
(817) 778-9211 — Facsimile
spierret@galyen.com – Email

Attorneys for Plaintiff